

REMARKS

Claims 1-6 and 8-16 are pending in this application. Claims 1, 6 and 8 are independent claims. By this amendment, 1, 6 and 8 are amended.

Reconsideration in view of the above noted amendments and the following remarks are respectfully solicited.

Allowable Subject Matter

Applicants note with appreciation the indication on page 7 of the Office Action that claims 14 and 16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants respectfully submit that this is not necessary in view of the following remarks.

The Claims Define Patentable Subject Matter

The Office Action makes the following rejections:

Claims 1-6, 8-13 and 15 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,795,685 to Walkup (hereafter Walkup).

These rejections are respectfully traversed.

Rejections under 35 U.S.C. §102(e)

Applicants respectfully submit that the claimed invention is distinguishable from the cited art, Walkup, for at least the following reasons:

In response to Applicants' previous arguments that the Examiner is improperly relying upon Walkup's "system," which includes a plurality of devices (e.g., at least two VRS repeaters, at least two mobile units, a base station and a portable unit) to read upon the claimed relay "device" that includes a single assembly, the Examiner responds that Applicants' arguments fail to comply with 37 CFR 1.111 because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims

patentably distinguishes them from the references. (see Office Action, page 2). Applicants respectfully disagree with this statement.

For example, previously, Applicants specifically argued that Walkup's "system," which includes a plurality of devices (e.g., at least two VRS repeaters, at least two mobile units, a base station and a portable unit) fails to read upon the claimed relay "device". In other words, Applicants specifically pointed out that Walkup failed to disclose a single relay assembly that includes the claimed features. Instead, Walkup disclosed a plurality of individual devices/assemblies, all of which the Examiner is trying to assemble together to read on the claimed invention.

For example, the Examiner alleges that Walkup teaches a relay device as shown in Walkup's Fig. 2. However, such a relay device in Walkup includes at least four individual assemblies: (1) a VRS repeater 202, (2) a mobile radio 204, (3) a portable device 208 and (4) a base station 206. The Examiner is attempting to use these assemblies all together to read on the claimed relay device.

However, Applicants submit that the Examiner is improperly relying upon Walkup's "system," which includes a plurality of devices (e.g., at least two VRS repeaters, at least two mobile units, a base station and a portable unit) (see Walkup, Fig. 1) to read upon the claimed relay "device". In other words, in the present invention a single relay assembly includes the claimed features, not a plurality of assemblies as set forth in Walkup.

In the present invention, at least the first radio communication unit and the second radio communication unit are separate components that are configured in the same assembly. In contrast with the present invention, Walkup must use a plurality of assemblies so as to attempt to achieve the results of the present invention.

Secondly, as for the claimed second radio communication unit provided separately from the first radio communication unit, the Examiner alleges that Walkup's transceiver 212 located in the VRS repeater 202 reads upon this claimed feature. Applicants respectfully disagree with this

allegation. For example, although transceiver 212 is separate from the transceiver in the mobile radio 204, the two transceiver devices are located in separate assemblies (one in a VRS repeater and one in a mobile radio), instead of being apart of a single assembly (a relay device).

For example, in the claimed invention, the second radio communication unit (170) is provided separately from the first radio communication unit (160) and the second unit is capable of transmission/reception of the signal by radio, for example. Furthermore, both unit (170) and unit (160) are apart of the relay device 100 assembly. (see present application, Fig. 1).

Thirdly, the Examiner alleges that Walkup discloses a first inhibition unit that inhibits transmission by the first radio communication unit during a period in which the transmission/reception of a signal by the second radio communication unit is detected. Specifically, the Examiner directs our attention to Walkup, col. 6, lines 34-63 and Figs. 3-4). (see Office Action, page 4). Applicants respectfully disagree with this allegation.

Applicants respectfully submit that Walkup fails to disclose such a claimed inhibition unit. For example, in the present invention the inhibition unit is being used to stop transmission of the signal from the first radio communication unit when the transmission/reception of the signal by the second radio communication unit is detected. In contrast with the present invention, Walkup merely discloses a system of devices used to relay a signal either from the base-to-portable or from portable-to-base via a VRS repeater unit 202 and a mobile radio 204.

In other words, in Walkup's system the alleged first radio communication unit 204 and the second radio communication unit 212 do not attempt to transmit the same signal at the same time. Instead, in Walkup the same signal is propagated from either the first communication unit 204 to the second communication unit 212 or vice versa. Therefore, Walkup cannot have a first inhibition unit as claimed, which controls transmission of the signal from the first radio communication unit during the time that the second communication unit is transmitting/receiving the signal.

Instead, Walkup is concerned with prioritizing a system of devices whereby prioritization of repeater units in a coverage area is performed wherein only one repeater unit will be the

priority repeater unit while other repeater units will be non-priority repeater units. In contrast with the relay device in the present invention, the VRS repeater system in Walkup comprises a portable unit that communicates with a VRS repeater unit, the VRS repeater unit communicates with a mobile radio, and the mobile radio communicates with a base station. (see Walkup, Figs. 1 and 2).

Furthermore, Walkup's priority protocol is between repeater unit 1 (i.e., 202,204) and repeater unit 2 (i.e., 206,208), instead of between the VRS repeater unit and the mobile radio. In other words, Walkup's priority protocol is used to control two repeater units (each having a VRS repeater unit and a mobile radio) from transmitting at the same time. In Walkup, during either portable-to-base or base-to-portable transmissions, only the highest priority VRS repeater unit in the coverage area will handle the repeated transmission.

As such, Walkup's repeater system is distinguishable from the claimed relay device at least in part because Walkup requires a system of devices, e.g., at least two VRS repeaters, at least two mobile units, a base station and a portable unit, in order to realize inhibition of the signal from the first radio communication unit.

For at least the reasons noted above, Applicants respectfully submit that the claimed invention is distinguishable from Walkup.

According to M.P.E.P. §2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claims." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989). The elements must be arranged as required by the claims, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicants respectfully submit that the Office Action has failed to establish the required *prima facie* case of anticipation because the cited reference, Walkup, fails to teach or suggest each and every feature as set forth in the claimed invention.

Applicants respectfully submit that independent claims 1, 6 and 8 are allowable over Walkup for at least the reasons noted above.

As for each of the dependent claims not particularly discussed above, these claims are also allowable for at least the reasons set forth above regarding their corresponding independent claims, and/or for the further features claimed therein.

Accordingly, withdrawal of the rejection of claims 1-6, 8-13 and 15 under 35 U.S.C. §102(e) is respectfully solicited.

Conclusion


In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Carolyn T. Baumgardner (Reg. No. 41,345) at (703) 205-8000 **to schedule a Personal Interview**.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

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Respectfully submitted,

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